

CITY OF OAKLAND



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January 30, 2008

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The Honorable Wayne D. Brazil
 United States District Court
 Northern District of California
 1301 Clay Street, Suite 400S
 Oakland, CA 94612

Re: Ortega, et al v. City of Oakland, et al
USDC No. C-07-2659 JCS

Dear Magistrate Brazil:

Defendant in this matter, Chief Wayne Tucker, hereby requests that he be excused from attending the mediation session in this matter. Instead, the City would propose that a command level member of the Oakland Police Department attend the mediation session. The mediation is currently scheduled for Tuesday, February 26, 2008.

This request is made for the following reasons. The main allegations in the case concern the actions of the two named police officers in the case, Sgt. Bernard Ortiz and Officer Ramon Alcantar. Sgt. Ortiz and Officer Alcantar will be present at the mediation session. The Oakland Police Department is also named as a defendant and so there will be a representative from the Police Department at the mediation session. Chief Tucker is primarily named in this lawsuit based on allegations of inadequate training and discipline by the Oakland Police Department. These issues are unlikely to be central to any resolution of the matter in mediation. A command level representative of the Department can adequately address any such issues that may come up during the mediation session. Chief Tucker cannot authorize a monetary settlement. A monetary settlement can only be approved by a vote of the Oakland City Council.

During the pre-mediation telephone conference, both plaintiffs' counsel and the mediator were in agreement with this request as long as a command level member from the Police Department was in attendance at the mediation session.

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A proposed order is submitted with this request.

Respectfully submitted,

JOHN A. RUSSO
City Attorney

By:

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CEV: cr

cc: Mr. Steven R. Jacobsen, Esq., Counsel for Plaintiffs
Mr. James Higa, Esq., Counsel for Defendant R. Alcantar
Mr. Stephen H. Sulmeyer, J.D., PhD
ADR Unit